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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,915	12/14/2001	Jeffrey de Vries	STRM-110	4838

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EXAMINER

WALSH, JOHN B

ART UNIT PAPER NUMBER

2151

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/023,915

Applicant(s)

VRIES ET AL.

Examiner

John B. Walsh

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/17/2005</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 11 and 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11 and 12 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 3, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., hard drive) and intangible embodiments (e.g., carrier wave). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

To overcome this type of 101 rejection the claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional media. For the specification, carrier medium and transmission media would be not statutory but storage media would be statutory.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,374,402 to Schmeidler et al.

As concerns claim 1, a system for providing a file system overlay on a local computer (abstract, line 3), comprising: a file system hook operatively interposed between a file system manager and a file system driver of said local computer (column 3, lines 1-6), the file system hook configured to detect a file system call corresponding to a target program and to perform one or more procedures (procedures of the program, column 3, lines 1-6); and an agent procedure executing on said local computer to configure the file system hook for executing the target program (column 2, line 56).

As concerns claim 2, the system of claim 1 further including a token file corresponding to said target program, said token file including file system overlay information for said target program (column 3, line 42).

As concerns claim 3, the system of claim 2 wherein said token file further includes information corresponding to one or more registry overlays, and environment variable changes (abstract, line 12, column 3, line 42).

As concerns claim 4, the system of claim 2 wherein said token file includes a unique file extension (file inherently has an extension associated with it, the term "unique" is a relative term and the examiner considers the extension associated with this file to be "unique", column 4, line 3).

As concerns claim 5, the system of claim 1 wherein the target program has associated therewith a unique process identifier generated by the operating system of the local computer (column 4, line 3).

As concerns claim 6, the system of claim 1 wherein said one or more procedures includes accessing data at a server terminal (local computer is the server terminal since it accesses info from the server).

As concerns claim 7, the system of claim 6 wherein said server terminal is operatively coupled to said local computer via a data network (column 2, lines 63-64, abstract).

As concerns claim 8, the system of claim 1 wherein said one or more procedures includes accessing data at a CD-ROM drive (147) operatively coupled to said local computer.

As concerns claim 9, a method of providing a file system overlay on a local computer (abstract, line 3), comprising the steps of: configuring a file system hook operatively interposed between a file system manager and a file system driver of said local computer (column 3, lines 1-6), to detect a file system call corresponding to a target program, and to perform one or more procedures (procedures of the program, column 3, lines 1-6); and executing an agent procedure on said local computer for configuring said file system hook to execute the target program (column 2, line 56).

As concerns claim 10, the method of claim 9 further including a token file corresponding to said target program, said token file including file system overlay information for said target program (column 3, line 42).

As best understood concerning claim 11, a computer program product, comprising: a medium readable by a computer, the computer readable medium having computer program code adapted to: configure a file system hook operatively interposed between a file system manager and a file system driver of said local computer (abstract, line 3), to detect a file system call corresponding to a target program, and to perform one or more procedures (procedures of the

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program, column 3, lines 1-6), and execute an agent procedure on said local computer for configuring said file system hook to execute the target program (column 2, line 56).

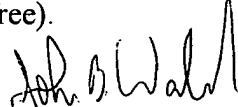
As best understood concerning claim 12, the computer program product of claim 11 further including a token file corresponding to said target program, said token file including a file system overlay information for said target program (column 3, line 42).

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Wednesday from 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John B. Walsh  
Primary Examiner  
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